

Residential Properties (First-hand Sales) Ordinance

Frequently Asked Questions and Answers (FAQs)

FAQs on Making Available of Sales Documents and Revised Sales Documents (e.g. Sales Brochure, Price List, Sales Arrangements and Vendor's Information Form)

FAQs are not guidelines. They aim to facilitate the trade to understand how the Sales of First-hand Residential Properties Authority (SRPA) looks at specific provisions of the Residential Properties (First-hand Sales) Ordinance (Ordinance).

Users of the FAQs should not rely on the information in the FAQs as professional legal advice and are strongly advised to seek legal or other professional advice should there be doubts about the application of the Ordinance in individual circumstances. Whilst every effort has been made to ensure the accuracy of the FAQs, the SRPA shall not be responsible for any liability howsoever caused to any person by the use or reliance on the FAQs.

Q1.1 Does the Ordinance specify where vendors should make available hard copies of the sales brochure on a 24 hour basis during the period of at least seven days immediately before a date of sale?

A1.1 According to section 25(1) of the Ordinance, during a period of at least 7 days immediately before a date of sale mentioned in section 14(1) of the Ordinance, the vendor must make hard copies of the sales brochure for the development available for collection by the general public free of charge. A similar requirement is imposed on the vendor under section 25(3) of the Ordinance to make a copy of the sales brochure available for inspection on the website designated by the vendor for the development. The

provisions require the vendor to be able to comply with both requirements at all times during the 7-day period. They are not administrative measures imposed by the SRPA.

The Ordinance does not specify the location where the vendor must make available hard copies of the sales brochure for the development for collection by the general public during the aforementioned period. Vendors have the discretion to decide suitable locations for the purposes of complying with section 25(1) of the Ordinance.

Q1.2 If the specified residential properties in a residential development are offered to be sold by auction or tender, is it necessary to make available price list for those residential properties?

A1.2 It is stipulated in section 67 of the Ordinance that if a specified residential property is sold or offered to be sold by way of auction or tender, Division 3 of Part 2 of the Ordinance (i.e. requirements on price list) does not apply.

If all of the specified residential properties in a residential development are to be offered to be sold by auction or tender, there is no need to make available any price list for any of those residential properties for the purposes of Division 3 of Part 2 of the Ordinance.

If some of the specified residential properties in a residential development are sold by auction or tender first, and then the remaining specified residential properties which Division 3 of Part 2 of the Ordinance applies are offered to be sold, the price list for the sale of the remaining specified residential properties does not have to include those specified residential properties which have already been sold by auction or tender.

If some of the specified residential properties in a residential development are offered to be sold by auction or tender, while in parallel the remaining specified residential properties are offered

to be sold not by means of auction or tender, the price list does not need to include those properties that are offered to be sold by auction or tender as Division 3 of Part 2 of the Ordinance does not apply to those properties. As it is a question of fact whether and when those properties are offered to be sold by auction or tender, the vendor should be prepared to prove that those properties are already offered to be sold by auction or tender on or before the first day on which the price list is made available under section 32(1) of the Ordinance. Otherwise, the vendor may have contravened section 30 of the Ordinance.

Q1.3 Under the Ordinance, vendors may revise the contents of sales brochure, price list and sales arrangements after their issuance. Whether the revised documents are subject to the timeframe requirements under sections 25, 32 and 47(1) respectively, i.e. whether the specified residential properties can only be offered to be sold after the revised sales brochure has been made available for a period of at least 7 days, and after the revised price list and sales arrangements have been made available for a period of at least 3 days?

A1.3 Sales brochure

According to section 25(9) of the Ordinance, the sales brochure made available for the public should be printed or examined under section 17(1) within the previous three months. Assuming a sales brochure is printed on 1 January (i.e. version A) and an examined sales brochure (i.e. version B) is made available on 1 April. There is no need for version B sales brochure to be made available for a period of at least 7 days in advance for the sale of the development to be continued on 1 April provided that for the 7-day period before 1 April, version A sales brochure is made available.

Price list

According to section 35 of the Ordinance, the owner may only sell, or offer to sell, the specified residential property –

- (i) at the price of that property, as set out in the price list copies of which have been made available under section

32(1), (2) and (3) of the Ordinance (i.e. for a period for at least 3 days immediately before the date of sale make available hard copies of the price list for collection by the public free of charge, on the date of sale make available hard copies of the price list for collection by the general public free of charge at the place where the sale is to take place, and make available electronic copy of the price list on the vendor's website for inspection); or

- (ii) at the price revised under 29(4) of the Ordinance as set out in the price list copies of which have been made available under section 32(1), (2) and (3) of the Ordinance. Section 29(4) of the Ordinance deals with changes to the price of specified residential property as set out in a price list.

If there is a change to the price of a residential property as set out in a price list, the property in question can only be sold or offered to be sold after the revised price list has been made available under section 32(1), (2) and (3) of the Ordinance (i.e. the revised price has to be made available for a period for at least 3 days immediately before the date of sale and on the date of sale of the property in question). As for the other properties the prices of which have also been set out on the same price list under revision but no changes to their prices have been made, there is no need for the owner to wait for another three days to offer to sell those properties (please also see No. 1.2 of FAQs on Price List, and No. 1.4 of FAQs on Making Available of Sales Documents and Revised Sales Documents below).

Sales Arrangements

According to section 47(1) of the Ordinance, the vendor must make available hard copies of a document containing the information on sales arrangements for collection by the general public free of charge during a period of at least 3 days immediately before the date of sale. The same information must also be made available for inspection on the vendor's website according to the same timeframe.

If changes are made to the sales arrangements, the specified residential properties affected by the changes should only be sold or offered to be sold after the revised sales arrangements have been made available to the public for a period of at least three days. For example, if at the original document containing the sales arrangement, there is only one place (e.g. location A) where the specified residential property will be offered to be sold. After three days, the vendor adds another place (e.g. location B) where the specified residential property will be offered to be sold and issues a revised document setting out the new sales arrangements. In this case, the specified residential property can continue to be offered to be sold at location A, but can only be offered to be sold at location B after the revised sales arrangements have been made available to the public for a period of at least three days immediately before the date of sale under section 47(1) of the Ordinance.

If, after issuing a document on the sales arrangements setting out residential properties to be offered for sale on a specific date, owners wish to offer additional residential properties for sale, it may issue another document of sales arrangements to cover the arrangements for the sale of the additional residential properties, and follow the requirements under section 47(1) of the Ordinance. Alternatively, owners may announce the offer for sale of those additional residential properties by making amendments to the previous document on sales arrangements. If so, the additional residential properties can only be offered to be sold after the revised document of sales arrangements have been made available to the public for a period of at least three days immediately before the date of sale under section 47(1) of the Ordinance. As for the other properties on the amended document of sales arrangement to which there are no changes to their sales arrangements, there is no need for the owner to wait for another three days to offer to sell those properties.

Q1.4 According to No. 1.2 of FAQs on Price List , if a vendor has issued a revised price list to adjust the price of a specified residential property, the residential property concerned

cannot be sold at the revised price unless the revised price list has been made available according to the requirements as set out in section 32 of the Ordinance. Does the vendor need to make available a revised document containing the sales arrangement for the specified residential property for which a revised price has been issued?

A1.4 According to No. 1.2 of FAQs on Price List, if a vendor has issued a revised price list to adjust the price of a specified residential property, the residential property concerned cannot be sold at the revised price unless the revised price list has been made available according to the requirements as set out in section 32 of the Ordinance. That said, before the revised price list takes effect, and on the basis that the requirements that are applicable to the original price list and a document containing the sales arrangements have been complied with, the vendor may sell the residential property concerned at the price on the original price list.

If the sales arrangements applicable to the residential property concerned remain unchanged notwithstanding the adjustment in price, there is no need for the vendor to make available a revised document containing the sales arrangements for selling the residential property concerned at the revised price.

Q1.5 If a vendor wishes to suspend the sale of a development, or wishes to reduce the number of properties to be offered for sale, can he do so at any time? In what way should vendors announce the suspension of sale or the reduction of the number of properties to be offered for sale?

A1.5 If a vendor wishes to suspend the sale of a development, or wishes to reduce the number of properties to be offered for sale, he can do so at any time. That said, vendors are advised to, as a matter of transparency, announce the suspension of sale or the reduction of the number of properties to be offered for sale.

On how to announce a suspension of sale or a reduction of the number of properties to be offered for sale, SRPA suggests that vendors may make available a document listing out the residential

properties which will be suspended for sale and stipulating the date on and from which sales will be suspended. Also, the vendor may mention in the document that the sales arrangements (citing the date of issue of that previous document) are no longer applicable to those residential properties. The vendor may also state in the document that the sales arrangements in respect of those residential properties as set out in the previous document containing the sales arrangements which will not be suspended for sale will remain unchanged.

The Ordinance does NOT require that vendors will have to wait for three days after making public the decision to suspend sales or reduce the number of properties to be offered for sale before they can do so.

Q1.6 Assuming a vendor has suspended the sales of all unsold units the sales of which have been announced in the documents containing the sales arrangements, the SRPA has been informed of the suspension and such suspension has been made public on the SRPE. When the sale is resumed, is the vendor required to make available the sales brochure, price list and sales arrangements respectively according to section 25, section 32 and section 47(1) of the Ordinance?

A1.6 If a vendor has suspended the sales of all unsold units the sales of which have been announced in the documents containing the sales arrangements, the SRPA has been informed of the suspension and such suspension has been made public on the SRPE, the vendor must comply with the 7-day and 3-day requirement and make available to the public the sales brochure, the price list and document containing the sales arrangements according to sections 25, 32 and 47 of the Ordinance when the sales is resumed. Also, the sales brochure will have to be printed, examined and/or revised within the previous 3 months.

Q1.7 For specified residential properties which have been suspended for sale and will be offered to be sold at a different price and using a different sales method, what actions should the vendor take in order to comply with the Ordinance?

A1.7 For those specified residential properties which have been suspended for sale and will be offered to be sold at a different price and using a different sales method, a revised price list and a document containing the new sales arrangements should be made available at least 3 days immediately before a date of sale. In the document containing the new sales arrangement, the vendor should set out the new sales arrangements for those residential properties of which sales will resume (including the date of resumption of sale and the new sales method).

If a vendor wishes to suspend the sale of a development or wishes to reduce the number of properties to be offered for sale and at that time he already has in mind when to resume the sales of those residential properties concerned, he may make available a document containing the sales arrangement which set out the following:

(i) the residential properties which will be suspended for sale and the date on and from which sales will be suspended;

(ii) the new sales arrangements for those residential properties concerned (including the date of resumption of sale and the new sales method); and

(iii) the sales arrangements in respect of those residential properties which will not be suspended for sale as set out in the previous document containing the sales arrangements will remain unchanged.

Q1.8 When does a vendor have to make available a Vendor's Information Form?

A1.8 As provided under section 68(1) of the Ordinance, if a specified residential property in a completed development, or a completed phase of a development, is offered to be sold to a person, the vendor must, as soon as practicable after the offer is made, provide to the person a Vendor's Information Form (VIF) printed within the previous 3 months. According to section 68(5) of the

Ordinance, the requirements under section 68 of the Ordinance are in addition to any other requirements that apply by virtue of Division 2, 3, 5, 6, 7 or 8 of the Ordinance.

Also, as provided under section 66 of the Ordinance, where a specified residential property is offered to be sold to a sitting tenant who has held the property under a tenancy for a continuous period of at least one year, the vendor must, as soon as practicable after the property is offered to be sold to that person, provide that person with a VIF printed within the previous 3 months. It is provided under section 66(3) of the Ordinance that Division 2 does not apply in the situation if that person agrees in writing that Division 2 does not apply.

Q1.9 Is it required for the plans annexed to the Deed of Mutual Covenant (“DMC”) or the latest draft of DMC to be made available for public inspection under section 48 and section 49 of the Ordinance?

A1.9 The vendor must make available the DMC for inspection by the general public at the place where the sale is to take place and on the website designated by the vendor for the development on a date of sale. The plans annexed to the DMC or the latest draft of DMC (“DMC Plans”) do form part of the DMC and should therefore be made available for inspection by the general public as well. If there is any subsequent change to the DMC Plans, the latest draft of DMC made available for public inspection should include the revised DMC Plans.

Sales of First-hand Residential Properties Authority
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